

ASSEMBLY BILL

No. 1085

Introduced by Assembly Member Robert Pacheco

February 25, 1999

An act to amend Sections 11353.1 and 11380.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1085, as introduced, Robert Pacheco. Controlled substances: family mobilehome parks.

Existing law makes it a felony, punishable by imprisonment in the state prison for 3, 6, or 9 years, for a person 18 years of age or older to engage in specified unlawful acts involving a minor with respect to specified controlled substances and provides for additional terms of imprisonment in the state prison if the offense involved certain controlled substances and occurred during specified hours in specified locations, such as a church, synagogue, playground, youth center, child day care facility, public swimming pool, or public or private elementary, vocational, junior high, or high school.

This bill would enact the Drug-Free Family Mobilehome Park Act of 1999, which would provide that the additional terms of imprisonment in the state prison pursuant to the latter provision above shall also be imposed if the offense occurred in a family mobilehome park or the family section of a mixed mobilehome park, as defined. By creating new enhancements, this bill would impose a state-mandated local program. The bill would set forth legislative findings and declarations supporting its enactment.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) This act shall be known as, and may
2 be cited as, the Drug-Free Family Mobilehome Park Act
3 of 1999.

4 (b) The Legislature hereby makes the following
5 findings and declarations in support of the enactment of
6 this act:

7 (1) Family mobilehome parks and family sections of
8 mobilehome parks are locations in which schoolchildren
9 live, play, and gather.

10 (2) Family mobilehome parks and family sections of
11 mobilehome parks are locations in which low-cost and
12 high-density housing, combined with a lack of adequate
13 security, result in nonresidents, including drug dealers,
14 having easy access to the park and its residents.

15 (3) Family mobilehome parks and family sections of
16 mobilehome parks contain parks, playgrounds, and other
17 facilities frequented by resident schoolchildren and their
18 friends.

19 (4) Family mobilehome parks and family sections of
20 mobilehome parks are locations where drug dealers
21 particularly are able to prey upon the parks' resident
22 schoolchildren and their friends.

23 (5) Family mobilehome parks and family sections of
24 mobilehome parks have experienced an increase in drug
25 offenses involving minors occurring in the areas of the
26 park in which schoolchildren live, play, or gather.

27 (6) In order to prevent drug trafficking with
28 schoolchildren in family mobilehome parks and family
29 sections of mobilehome parks and to protect



1 schoolchildren in family mobilehome parks and family
2 sections of mobilehome parks from exposure to drug
3 transactions and the hazards they present, it is necessary
4 that this bill be enacted.

5 SEC. 2. Section 11353.1 of the Health and Safety Code
6 is amended to read:

7 11353.1. (a) Notwithstanding any other provision of
8 law, any person 18 years of age or over who is convicted
9 of a violation of Section 11353, in addition to the
10 punishment imposed for that conviction, shall receive an
11 additional punishment as follows:

12 (1) If the offense involved heroin, cocaine, cocaine
13 base, or any analog of these substances and occurred upon
14 the grounds of, or within, a church or synagogue, a
15 playground, a public or private youth center, a child day
16 care facility, *a family mobilehome park, a family section*
17 *of a mobilehome park*, or a public swimming pool, during
18 hours in which the facility is open for business, classes, or
19 school-related programs, or at any time when minors are
20 using the facility, the defendant shall, as a full and
21 separately served enhancement to any other
22 enhancement provided in paragraph (3), be punished by
23 imprisonment in the state prison for one year.

24 (2) If the offense involved heroin, cocaine, cocaine
25 base, or any analog of these substances and occurred
26 upon, or within 1,000 feet of, the grounds of any public or
27 private elementary, vocational, junior high, or high
28 school, during hours that the school is open for classes or
29 school-related programs, or at any time when minors are
30 using the facility where the offense occurs, the defendant
31 shall, as a full and separately served enhancement to any
32 other enhancement provided in paragraph (3), be
33 punished by imprisonment in the state prison for two
34 years.

35 (3) If the offense involved a minor who is at least four
36 years younger than the defendant, the defendant shall, as
37 a full and separately served enhancement to any other
38 enhancement provided in this subdivision, be punished
39 by imprisonment in the state prison for one, two, or three
40 years, at the discretion of the court.

(b) The additional punishment provided in this section shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

(c) The additional punishment provided in this section shall be in addition to any other punishment provided by law and shall not be limited by any other provision of law.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment provided for in this section if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(e) As used in this section the following definitions shall apply:

(1) "Playground" means any park or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city, county, or state parks.

(2) "Youth center" means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

(3) "Video arcade" means any premises where 10 or more video game machines or devices are operated, and where minors are legally permitted to conduct business.

(4) "Video game machine" means any mechanical amusement device, which is characterized by the use of a cathode ray tube display and which, upon the insertion of a coin, slug, or token in any slot or receptacle attached to, or connected to, the machine, may be operated for use as a game, contest, or amusement.

(5) "Within 1,000 feet of the grounds of any public or private elementary, vocational, junior high, or high

1 school” means any public area or business establishment
2 where minors are legally permitted to conduct business
3 which is located within 1,000 feet of any public or private
4 elementary, vocational, junior high, or high school.

5 (6) “Child day care facility” has the meaning specified
6 in Section 1596.750.

7 (7) “Family mobilehome park” means any
8 mobilehome park wherein, according to its rules and
9 regulations, families with minor children may reside.
10 “Family mobilehome park” includes any playground,
11 youth center, video arcade, or other recreational facility
12 on the grounds of the mobilehome park that minor
13 children residing in the family mobilehome park are
14 authorized to use.

15 (8) “Family section” means any section of a mixed
16 mobilehome park wherein, according to its rules and
17 regulations, families with minor children may reside.
18 “Family section” includes any playground, youth center,
19 video arcade, or other recreational facility on the grounds
20 of the mixed mobilehome park that minor children
21 residing in the family section are authorized to use.

22 (f) This section does not require either that notice be
23 posted regarding the proscribed conduct or that the
24 applicable 1,000-foot boundary limit be marked.

25 SEC. 3. Section 11380.1 of the Health and Safety Code
26 is amended to read:

27 11380.1. (a) Notwithstanding any other provision of
28 law, any person 18 years of age or over who is convicted
29 of a violation of Section 11380, in addition to the
30 punishment imposed for that conviction, shall receive an
31 additional punishment as follows:

32 (1) If the offense involved phencyclidine (PCP),
33 methamphetamine, lysergic acid diethylamide (LSD), or
34 any analog of these substances and occurred upon the
35 grounds of, or within, a church or synagogue, a
36 playground, a public or private youth center, a child day
37 care facility, a family mobilehome park, a family section
38 of a mobilehome park, or a public swimming pool, during
39 hours in which the facility is open for business, classes, or
40 school-related programs, or at any time when minors are

1 using the facility, the defendant shall, as a full and
2 separately served enhancement to any other
3 enhancement provided in paragraph (3), be punished by
4 imprisonment in the state prison for one year.

5 (2) If the offense involved phencyclidine (PCP),
6 methamphetamine, lysergic acid diethylamide (LSD), or
7 any analog of these substances and occurred upon, or
8 within 1,000 feet of, the grounds of any public or private
9 elementary, vocational, junior high school, or high school,
10 during hours that the school is open for classes or
11 school-related programs, or at any time when minors are
12 using the facility where the offense occurs, the defendant
13 shall, as a full and separately served enhancement to any
14 other enhancement provided in paragraph (3), be
15 punished by imprisonment in the state prison for two
16 years.

17 (3) If the offense involved a minor who is at least four
18 years younger than the defendant, the defendant shall, as
19 a full and separately served enhancement to any other
20 enhancement provided in this subdivision, be punished
21 by imprisonment in the state prison for one, two, or three
22 years, at the discretion of the court.

23 (b) The additional punishment provided in this
24 section shall not be imposed unless the allegation is
25 charged in the accusatory pleading and admitted by the
26 defendant or found to be true by the trier of fact.

27 (c) The additional punishment provided in this
28 section shall be in addition to any other punishment
29 provided by law and shall not be limited by any other
30 provision of law.

31 (d) Notwithstanding any other provision of law, the
32 court may strike the additional punishment provided for
33 in this section if it determines that there are
34 circumstances in mitigation of the additional punishment
35 and states on the record its reasons for striking the
36 additional punishment.

37 (e) The definitions contained in subdivision (e) of
38 Section 11353.1 shall apply to this section.

(f) This section does not require either that notice be posted regarding the proscribed conduct or that the applicable 1,000-foot boundary limit be marked.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS

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